IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 6102 of 1995

Between:

K. Thimothi S/o. K. Simon, R/o. Mellacheruvu Village, Kondurg Mandal, Mahabubnagar District.

..... PETITIONER

AND

1 The District Collector, Mahabubnagar District, Mahabubnagar.

2 The Mandal Revenue Officer, Gadwal Mandal, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction onein the nature ofMandamus; i). declaring the action of the Respondents NO. 1 in cancelling the Caste Certificate through an order dated 28.12.1990 bearing No. D.2/6264/90, issued by the Mandal Revenue Officer, Gadwal Mandal, Mahabubnagar, District, through Proceedings dated 3.6.1987, bearing No. 1288/87, as illegal, and arbitrary and against the principles of natural justice;(ii) granting all consequential benefits including posts; or any other order or orders appropriate in the case may be passed.

Counsel for the Petitioner: MR.M.RAMA RAO

Counsel for the Respondent No. 1 & 2:j GP FOR SOCIAL WELFARE

The Court made the following :

ORDER:

The present writ petition has been filed by the petitioner to declare the action of the respondent in cancelling the Caste Certificate by order dated 28-12-1990 bearing No.D2/6264/90, issued by the Mandal Revenue Officer,Gadwal Mandal Mahabubnagar District through Proceedings dated 3-6-1987, bearing No.1288/87 as illegal and arbitrary and against the principles of natural justice,

The petitioner is a Special Teacher working in Zilledu Village, Kondurg Mandal, Mahabubnagar District. On 2-9-1990 a show cause notice has been issued to the petitioner by the respondent to show cause as to why his Caste Certificate should not be cancelled. In response to the same, the petitioner seems to have filed his explanation on 2-9-1990. However, The Collector, Mahaboobnagar, has chosen to pass an order on

28-12-1990 .

During the course of enquiries made by made by the Mandal Revenue Officer, Upa-Sarpanch and the Joint Collector individually, it is revealed that the petitioner has changed his name from Seshanna to Simon and his ancestors also followed the Christianity. On the same ground Caste Certificate has been cancelled through proceedings dated 3-6-1987 bearing No.1288/87.

At this stage, the learned counsel for the petitioner while attacking the order impugned on the ground that enquiries have been made behind the petitioner, submits that the same is in violation of the A.P. S.C. S.T. & Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 and, therefore, it is liable to be set aside.

I have perused the order impugned. The said order was passed by the 1st respondent-District Collector. In this regard, it is not out of place mention as to the Rule 5 (i) of the A.P. S.C. S.T. & Backward Class- Issue of Community, Nativity and Date of Birth Certificates Rules, 1997, which contemplates that the competent

authority, in the cases of doubtful claims, shall refer the matter to the Chairman of the Scrutiny Committee formed at the District Level under rule 8, for the recommendations of the Committee, with regard to the issue of the community, nativity and date of birth certificate as applied for by the applications. On receipt of the recommendations of the Scrutiny Committee, the Competent authority shall accordingly confirm or reject the claims of the applicants.

Coming to the case on hand, it is apparent on the face of the record that this exercise has not been followed while issuing the order impugned. Therefore, I am of the opinion that the order impugned is in violation of rule 5 (i) of the Rules and on that account, the order is liable to be set aside and the matter is remanded back to the competent authority.

Accordingly, the order impugned is set aside and the matter is remanded back to the 1st respondent for fresh disposal. The 1st respondent is directed to adhere to the procedure adopted under Rule 5 (i) of the A.P. S.C. S.T. and Backward Classes-Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 while passing the order, if any. This exercise shall be completed within a period of six (6) months from the date of receipt of a copy of this order.

Subject to the above directions, this writ petition is disposed of. No costs.

16-09-2004

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector, Mahabubnagar District, Mahabubnagar.
2 The Mandal Revenue Officer, Gadwal Mandal, Mahabubnagar District.
3. 2CCs to G.P. for Social Welfare, A.P.High Court Buildings,(OUT)

2. 2CD copies